



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/400,724	09/21/1999	MARK E. OGRAM	1475B.5A	3732

7590 07/15/2003
MARK E OGRAM
7454 E BROADWAY STE 203
TUCSON, AZ 85710

EXAMINER

COSIMANO, EDWARD R

ART UNIT PAPER NUMBER

3629

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/400,724

Applicant(s)

OGRAM, MARK E.

Examiner

Edward R. Cosimano

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

1. Applicant should note the changes to patent practice and procedure:
 - A) effective December 01, 1997 as published in the Federal Register, Vol 62, No. 197, Friday October 10, 1997; and
 - B) effective November 07, 2000 as published in the Federal Register, Vol 65, No. 54603, September 08, 2000.
2. The specification and drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification or drawings. Applicant should note the requirements of 37 CFR § 1.74, § 1.75, § 1.84(o,p(5)), § 1.121(a)-1.121(f) & § 1.121(h)-1.121(i).
3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
 - (c) Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.
- 3.1 Claims 1-5 & 7-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Communications Week article in view of Hall et al (T104,003) and common well accepted practice.
 - 3.1.1 In regard to claims 1, 4, 5 & 7, the Communications week article discloses in January 1996 that it was known to in on-line commerce to use a credit intermediary. The credit intermediary uses customer account information, for example credit information, that has been

Art Unit: 3629

received from an first remote computer that us an user via a network to obtain an authorization indicia, for example an approval number. After the authorization indicia has been received, the authorization indicia is passed on to the merchant via a network so as to indicate that payment has been made for an item being purchased.

6.1.2 The Communications week article does not disclose that the intermediary receives amount data from a second remote computer, that is merchant, however, since:

A) the approving entity, such as a bank or credit card company requires the amount data to be specified before issuing an authorization indicia;

B) a merchant requires the correct payment for merchandise being purchased;
and

C) the customer may alter the amount information in the customer's advantage;
it would have been obvious to one of ordinary skill at the time the invention was made that the credit intermediary of the Communications week article would receive the amount data from the second remote computer.

3.1.3 The Communications week article does not disclose the operations are performed automatically with out human intervention, however, as taught by Hall et al ('003) it was known in 1984 that information/data could be transmitted over a communication link between two computers using any suitable protocol. Where the protocol defines the make up of the information/data being transmitted as a known sequence/series of commands/instructions/data. Therefore, in 1996 one of ordinary skill would have known that information/data that is being transmitted between a client computer and a server is structured according known communications protocol, otherwise the receiving computer could not make any sense of the transmitted information/data. Based on the fact that the transmission of information/data is in fact structured, it would have been obvious to one of ordinary skill at the time the invention was made that the information/data in a transmission could be automatically retrieved from the transmitted data with out human intervention, since the transmitted data must appear in a specified sequence with in the transmitted information/data.

3.1.4 In regard to claims 2, 3, 9 & 10, it is noted that the Communications week article discloses the use of passwords to authenticate the identity of users on a network.

Art Unit: 3629

3.1.5 In regard to claim 8, it is noted that in the on-line commerce system described in the Communications week article, it would have been obvious to one of ordinary skill at the time the invention was made that the merchant, after receiving payment would generated a shipping order and then delivery the purchased item to the customer as is the well established procedure.

4. Response to applicant's arguments.

4.1 All rejections and objections of the previous Office action not repeated or modified and repeated here in have been over come by applicant's last response.

4.2 In regard to the appearance of two copyright dates, it is respectfully noted that the publication data is used and not the copyright date.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cosimano whose telephone number is (703) 305-9783. The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703)-308-2702. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

5.1 The fax phone number for UNOFFICIAL/DRAFT FAXES is (703) 746-7240.

5.2 The fax phone number for OFFICIAL FAXES is (703) 305-7687.

5.3 The fax phone number for AFTER FINAL FAXES is (703) 308-3691.

07/09/03


Edward R. Cosimano
Primary Examiner A.U. 3629